

Advocacy Committee

The following letter was prepared by the NAJIT Advocacy Committee, chaired by Dr. Alexander Rainof, and sent by NAJIT in the case of Eulalia Miguel, also known as Petrona Tomas, now being tried in Florida.

September 23, 2003
Palm Beach County Court
Honorable Hubert Rolane Lindsey
205 N. Dixie Highway Rm 324

West Palm Beach, Florida 33401
RE: State of Florida v. Eulalia Miguel, a/k/a Petrona Tomas
Case Number: 02-11821CF AO2 Division "T"

Honorable Hubert Rolane Lindsey:

We write on behalf of the National Association of Judiciary Interpreters and Translators (NAJIT), a professional association of interpreters and translators in the legal field. The association was founded in 1979 and currently has over one thousand members. Our mission is to advocate, educate, and promote the field of court interpreting and to establish ethical and professional standards of interpretation and translation in the many settings where these disciplines are practiced. We provide a forum for discussion of interpreting issues, organize interpreter/translator training and education, and offer continuing legal education for judges, attorneys and law enforcement. We also provide consultation and guidance to courts, court administrators, law enforcement, prosecutors, defense attorneys and businesses regarding language-related or interpreting issues. In our many functions we strive to maintain collegial relations with courts, law enforcement, defense bar, prosecution and court support services. We submit this letter to your honor as friends of the court.

NAJIT does not advocate for or against the parties involved in any action. However, we wish to take a position on the interpreting and translating standards in the above-captioned case.

The NAJIT board, members and other interpreters, including local interpreter associations from other states, are very concerned about the quality and neutrality of the interpreter services provided to the court in this case. We have great misgivings not only regarding issues of due process, but also regarding the negative impact this case might have on well established professional standards of judiciary interpreting and translating.

The defendant in this matter, a 15-year old charged with first degree murder of her infant daughter, is from Guatemala. Before coming to the U.S., she lived her whole

life in an isolated Indian town and Spanish is not her native language. Her principal language is a relatively rare Mayan dialect. It is not known with certainty which Mayan dialect she speaks, whether Kanjobal or Akateko (also known as Western Kanjobal). These dialects have approximately 78,000 and 55,000 speakers respectively (source: Ethnologue: Languages of the World, web edition at www.ethnologue.com).

To our knowledge, the defendant was not provided with an interpreter of her own dialect at any stage in the proceedings. Throughout the pendency of this matter, the police and the courts have evidenced considerable confusion over how to establish meaningful communication with the defendant.

Due to the rarity of the language, it is understandable that the courts would have difficulty finding someone who speaks both the defendant's dialect and English fluently. However, once such a person is located, he or she is not qualified to interpret in a legal setting unless properly trained and oriented. For example, this "interpreter" might not know the different meanings of murder and manslaughter and would simply translate these terms identically. It is also possible that this person would tailor the translation for a particular purpose. Experience has taught us that courts need to approach with utmost caution the designation of an interpreter in a so-called exotic language, especially in a case that has gender, cultural or juvenile issues. This case has all three.

Family or friends have served as interpreters at different stages of the case but they cannot be considered neutral interpreters. They are not trained in legal terminology, skills, ethics, professional role, and responsibilities. They might have an interest in the outcome of the case or be potential suspects themselves.

We have been informed that there continue to be serious problems with the lack of a qualified, trained, neutral interpreter in the particular Mayan language spoken by Eulalia Miguel. Since the defendant was arrested on October 9, 2002 and to date the problems have not been remedied, we feel it necessary to express our concern.

Without a qualified neutral interpreter in the defendant's language, not only is the court potentially exposed to a suit for discrimination due to national origin, but constitutional rights can be compromised and due process affected, including: giving informed consent to search; knowingly, intelligently and truly understanding Miranda; understanding the exact nature of the charges; communicating with the prison authorities regarding medical care or other needs; understanding prison regulations; engaging in meaningful communication with counsel; assisting in her own defense; meaningfully participating in all stages of the proceedings; being understood fully should she speak on her own behalf; and entering a

plea knowingly, intelligently and of her own free will.

In order to ensure due process available resources should be used to provide a trained, qualified, neutral interpreter every time the defendant appears in court or consults with an attorney. We respectfully submit that fundamental fairness, not the cost of such services, is the paramount consideration.

If a qualified interpreter in the defendant's Mayan dialect is not available in the state of Florida, an experienced interpreter from another state can be contacted. California state courts have a list of interpreters who speak a variety of Mayan languages.

If an experienced interpreter of the particular Mayan dialect cannot be found, the next-best approach to effective communication would be through what is known as "relay interpretation." This has been used before in cases of rare Indian languages. A Mayan-Spanish speaker is found, and that person interprets into Spanish, and then a certified Spanish interpreter interprets into English for court and counsel.

NAJIT is available to assist in any way with resources, information and guidelines. We can provide names of experienced, qualified court interpreters in Konjobal or Akateko, experts in the field of court interpreting, and Mayan cultural experts. These names will be provided as a courtesy to the courts or counsel.

We enclose select case law on interpreting and translating issues as well as a copy of our canon of ethics and professional responsibilities.

Cordially,
NAJIT, the National Association of Judiciary
Interpreter and Translators, Board of Directors
Cristina Helmerichs D, Chair

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in nature, and typically follow a question/answer format. Brochures will be offered as a PDF file on our website, available to members at no cost and downloadable by non-members for a modest fee. Longer publications (monographs, handbooks, glossaries, etc.) will be published in booklet form.

Website Update

We also seek to update and expand the information in the FAQ section of NAJIT's website.

Conclusion

NAJIT is taking an active role in publishing educational material for practitioners and the legal profession. To accomplish these goals, a lot of work needs to be done by many individuals. The Publications Committee welcomes assistance in any of the projects described above.

Please contact the Publications Committee chair at zetterst@yahoo.com to obtain further information on projects, to offer assistance or suggestions, or to submit manuscripts for potential publication.

LETTER TO THE EDITOR

I realize that Arlene Kelly is reporting what she heard at NAJIT's Nashville conference in her article "Tennessee's Credentialing Program," but I would like to add to the record. I was asked to participate in the presentation but was left out when it was scheduled.

Ms. Kelly gives short shrift to the groundwork laid by the Tennessee Foreign Language Institute, and specifically to the coordinator for court interpreter certification. I was that coordinator, and I researched thoroughly all options available to the state, conducted judicial education and hired professional interpreters/trainers to educate the practicing interpreters in TN, all in anticipation of a coming certification program. Ms. Montgomery was not part of this arduous process. Her help was crucial three years later, when we began to seek consensus on rules for approval by the TN Supreme Court, based on a draft I compiled of the best the Consortium had to offer.

I traveled, spoke with and learned from the best practitioners and administrators. Without the Tennessee Foreign Language Institute's initiative to support the Public Defender's Conference Director Andy Hardin and insistence that we pay more than lip service to this issue, Tennessee would not have a certification program.

The Tennessee Foreign Language Institute is an innovative government agency that is addressing many of our most pressing public concerns in the areas of linguistic access. Please visit our website at www.foreignlanguages.org. Thank you for the opportunity to set the record straight.

Janice Snow Rodriguez
Acting Director
Tennessee Foreign Language Institute

Continuing Education Credits

Credits have been awarded by the States of California and Washington for the NAJIT Annual Conference held in Nashville May 2003. Contact headquarters for detailed information.